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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,536	06/07/2001	Daniel S. McIntyre	D-1142	7578

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EXAMINER

LABAZE, EDWYN

ART UNIT PAPER NUMBER

2876

DATE MAILED: 08/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/876,536	MCINTYRE ET AL.	
	Examiner	Art Unit	
	EDWYN LABAZE	2876	

-- The MAILING DATE of this communication appears to coincide with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 42 and 43 are objected to because of the following informalities: It is improper to have a method claim dependent of an apparatus. In this case, the examiner is assuming and treating claim 42 as dependent of claim 27. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1-26, drawn to the apparatus and method claims (27-42) are rejected under 35 U.S.C. 102(e) as being unpatented by Gromley et al. (U.S. 6,146,057)

Re claim 1: Gromley et al. discloses a pneumatic transfer apparatus 10 (col.4, line 34), which includes an enclosure/housing 34 (col.5, line 31) wherein the enclosure is adapted to house a card actuated terminal, a movable cover/member (col.3, lines 18-21; col.6, lines 31-44; and col.6, lines 62-67+) in supporting connection with the enclosure, wherein the drive enables selective moving the cover between an open position wherein the terminal is accessible from the outside and a closed position wherein access to the terminal from outside the enclosure, also

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includes a remote control device/buttons/switches (col.5, lines 47-56) in operative connection with the drive to cause the cover to move between open and closed positions.

Re claim 2: Gromley et al. teaches that the system also includes a mount in supporting connection with the enclosure, and wherein the terminal is removably attached to the mount (col.8, lines 28-44).

Re claim 3: Gromley et al. discloses a system, wherein the enclosure/housing includes a projecting portion (col.9, lines 1-16) wherein the projection extends vertically overlying relation of the terminal.

Re claim 4: Gromley et al. teaches a system wherein the closed cover position is in generally abutting engagement with the projection portion (col.12, lines 61-67 and col.13, lines 1-19).

Re claim 6: Gromley et al. discloses a system, which includes a shelf/drawer 20 (col.4, line 57) portion in supporting connection with the enclosure/housing, wherein the shelf portion underlies the terminal.

Re claim 7: Gromley et al. teaches a system wherein the shelf/compartment portion is adapted to prevent items from falling into the enclosure in the open position of the cover (col.16, lines 40 –50).

Re claim 8: Gromley et al. discloses a system wherein the open position of the cover, the shelf portion is position to generally prevent passage of items between the shelf portion and the cover (col.16, lines 15-39).

Re claim 9: Gromley et al. in view of Albert et al. teaches a terminal, which includes a front face and two opposed side surfaces (see fig. # 2), and wherein the cover is configured such

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that the in the open position the front and two opposed side surfaces of the terminal are accessible from outside (col.4, lines 39-44).

Re claim10: Gromley et al. discloses that the pneumatic transfer system includes a drive-through lane, and wherein the enclosure is positioned so the terminal is accessible from the drive through lane in the open position of the cover (col.4, lines 39-50).

Re claim11: Gromley et al. teaches a system and further includes a building wherein the building has an interior area adjacent to the drive-through lane, and wherein the remote control device or buttons/switches (col.5, lines 47-56) is in the interior area, wherein the input of the remote control device is enabled to be provided by a service provider in the interior area.

Re claim12: Gromley et al. discloses a system wherein the service provider station includes remote control device/buttons/switches, the drive-through lane/window18 (col.5, lines 48-50) has a customer station, wherein the customer station includes the terminal 14 (col.4, line 67).

Re claim13: Gromley et al. teaches a system wherein an item transport extends between the service provider station and the customer station, wherein the item transport is operative to move a transaction item between the customer station and the service provider (col.6, lines 12-30).

Re claim14: Gromley et al. discloses a system wherein the item transport includes a deal drawer 20 (col.4, lines 54-59).

Re claim15: Gromley et al. teaches a system wherein the item transport includes a pneumatic tube conveyor (col.16, lines 51-60).

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Re claim 16: Gromley et al. discloses a system wherein the interior area includes a pharmacy and wherein medical items are moved in the item transport (col.4, lines 35-41).

Re claims 17: Gromley et al. discloses that the pneumatic transfer apparatus includes a viewing device operative to put the customer station and the service station in visual connection (col.6, lines 1-11).

Re claim 18: Gromley et al. teaches a system wherein the viewing device also includes a window 18 (col.4, lines 47-50).

Re claim 19: Gromley et al. discloses a system wherein the viewing device includes a camera or visual communication devices (col.7, lines 57-61). It is obvious to an artisan of ordinary skill in the art that visual communication devices include cameras. Therefore, it would have been obvious to incorporate a camera into the teaching of Gromley et al. at the time of the invention.

Re claim 23: Gromley et al. discloses a system wherein the enclosure includes a movable carrier 32 (col.5, lines 27-31).

Re claims 24 and 42: Gromley et al. teaches a system wherein the movable carrier includes a carrier movable within a pneumatic tube (col.2, lines 57-59 and col.16, lines 51-57).

Re claim 26: Gromley et al. discloses a system wherein the movable carrier includes a releasable mounting device holding the terminal (col.3, lines 22-37 and col.10, lines 48-63).

Re claim 27: Gromley et al. discloses a system, which includes methods of providing an enclosure having an interior area at the customer station, movable cover, access to the interior area (col.17, lines 42-46); providing a payment terminal in view of Bustos (U.S. 5,816,443 col.8,

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lines 1-5); and opening the cover responsive to a remote control device/buttons (col.5, lines 47-56) to enable access to a customer at the customer station.

Re claim 28: Gromley et al. discloses a system, which includes methods wherein the cover is opened responsive to a device by the service provider (col.5, lines 47-56).

Re claim 29: Gromley et al. discloses a system wherein the service provider provides the input responsive to visual observation of the customer at the customer station (col.9, lines 65-67 and col.8, lines 1-11).

Re claim 30: Gromley et al. teaches a system, which includes methods of making a payment by the customer responsive to at least on input to the terminal (col.6, lines 15-23).

Re claim 31: Gromley et al. in view of Bustos discloses a system, which includes step of reading a card through operation of the terminal (col.5, lines 13-26).

Re claim 32: Gromley et al. teaches a system, which includes methods of providing an item to the customer at the customer station through an item transport (col.6, lines 15-23).

Re claim 33: Gromley et al. discloses a method wherein the payment is made in exchange for item provided by the service provider (col.6, lines 18-23).

Re claim 34: Gromley et al. discloses a method wherein the item provided includes a medical item (col.6, line 23).

Re claim 35: Gromley et al. discloses a method wherein the enclosure is provided adjacent to a drive-through lane (col.4, lines 47-50).

Re claim 36: Gromley et al. discloses a method wherein the drive-through lane is adjacent to a building having a pharmacy (col.4, lines 45-47).

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Re claim 37: Gromley et al. discloses a method wherein the item transport includes a deal drawer extending through a building wall (col.4, lines 50-54).

Re claim 38: Gromley et al. discloses a system wherein the item transport includes a pneumatic tube conveyor (col.16, lines 51-54).

Re claim 39: Gromley et al. discloses a system, which includes methods of closing the cover or movable member responsive to an input to the remote control device (col.17, lines 48-51).

Re claim 40: See the discussions as set forth in claim 21.

Re claim 41: Gromley et al. teaches a system which includes methods wherein the cover in the open position the terminal is accessible to the customer at the customer station on at least three sides (see fig. # 6).

Re claim 43: See the discussions as set forth in claim 25.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gromley et al. in view of Bustos (U.S. 5,816,443).

The teachings of Gromley et al. have been discussed above.

Gromley et al. fails to disclose a display in the terminal.

Bustos teaches a product vending system with pneumatic product delivery wherein the terminal includes a display (col.11, lines 55-56).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to employ a displayed system into the teachings of Gromley et al. to facilitate further communication and to give the customer at any time of the transactions more options, including additional purchases, receipts, and account balances from a credit or/and debit card terminal in the absence or presence of a live operator at the customer station. Furthermore, such modification would have been an obvious extension as taught by Gromley et al.

Re claim 20: Gromley et al. in view of Bustos discloses a cash register (col.7, line 50; col.8, lines 25-26; col.8, lines 49-50), wherein the terminal is in operative connection with the cash register.

Re claim 21: Gromley et al. in view of Bustos teaches a system wherein the terminal includes a credit card terminal 18 (col.8, lines 1-5).

Re claim 22: Gromley et al. in view of Bustos discloses a system wherein the terminal includes a debit card terminal 18 (col.11, lines 48-66). It is obvious to an artisan of ordinary skill in the art that the credit card terminal can also be used as a debit card terminal provided that the debit card account is acceptable by one of the major credit card companies. Therefore, it would have been obvious to use the same credit card terminal as a debit card terminal into the teaching of Gromley et al. at the time of the invention.

6. Claims 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gromley et al. in view of Albert et al. (U.S. 5,991,410).

The teachings of Gromley et al. have been discussed above.

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Gromley et al. fails to disclose a card-activated terminal, which includes a terminal adapted to communicate through wireless communication methods.

Albert et al. teaches a wireless adaptor and wireless financial transaction system, which includes communication means through wireless modems (col.9, lines 8-32).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to employ a wireless system into the teachings of Gromley et al. to allow merchants who are currently not capable of accepting credit or debit cards as payment for goods or services to accept such card. Adding wireless capabilities to an existing financial transaction device further provides a merchant with the option of operating the financial transaction device in either a fixed or portable fashion, as determined to be most beneficial to the merchant. Furthermore, such modification would have been an obvious extension of the teaching of Gromley et al., therefore an obvious expedient.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Clark et al. (U.S. 3,949,364) discloses an automatic remote banking system and equipment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWYN LABAZE whose telephone number is (703) 305-5437. The examiner can normally be reached on 7:30 AM - 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

el
August 8, 2002

**KARL D. FRECH
PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read 'K. Frech', written over the printed name and title.